

SENATE BILL NO. 210

INTRODUCED BY C. GLIMM

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING CONSENT AS A LEGAL DEFENSE; PROVIDING THAT PHYSICIAN AID IN DYING IS CONTRARY TO PUBLIC POLICY; PROVIDING THAT CONSENT TO PHYSICIAN AID IN DYING IS NOT A DEFENSE TO A CHARGE OF HOMICIDE; DEFINING "PHYSICIAN AID IN DYING"; AND AMENDING SECTION 45-2-211, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-2-211, MCA, is amended to read:

"45-2-211. Consent as defense. (1) The consent of the victim to conduct charged to constitute an offense or to the result ~~thereof~~ of it is a defense.

(2) Consent is ineffective if:

(a) it is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense;

(b) it is given by a person who by reason of youth, mental disease or disorder, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;

(c) it is induced by force, duress, or deception;

(d) it is against public policy to permit the conduct or the resulting harm, even though consented to; or

(e) for offenses under 45-5-502, 45-5-503, 45-5-508, 45-5-601, 45-5-602, 45-5-603, or Title 45, chapter 5, part 7, it is given by a person who the offender knew or reasonably should have known was a victim of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred.

(3) (a) For the purposes of subsection (2)(d), physician aid in dying is against public policy, and a patient's consent to physician aid in dying is not a defense to a charge of homicide against the aiding physician.

